

# Exhibit 4

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: )  
 ) CA No. 01-12257-PBS  
PHARMACEUTICAL INDUSTRY AVERAGE )  
WHOLESALE PRICE LITIGATION ) Pages 1 - 17  
 )

STATUS CONFERENCE

BEFORE THE HONORABLE PATTI B. SARIS  
UNITED STATES DISTRICT JUDGE

United States District Court  
1 Courthouse Way, Courtroom 19  
Boston, Massachusetts  
March 31, 2010, 2:05 p.m.

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OFFICIAL COURT REPORTER  
United States District Court  
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<p style="text-align: right;">Page 6</p> <p>1 THE COURT: In a way that's the good news for you, but</p> <p>2 in a way it's not.</p> <p>3 MS. SHOFNER: It's not, your Honor. We would want</p> <p>4 this motion, if it was going to be granted, to be granted with</p> <p>5 prejudice. He's currently seeking --</p> <p>6 THE COURT: No, I'll never do that with a Medicare</p> <p>7 class. I'm not going to do it with prejudice.</p> <p>8 MS. SHOFNER: Or at least on condition that he not</p> <p>9 file a state court action competing with this?</p> <p>10 MS. CONNOLLY: That's our concern, your Honor, is that</p> <p>11 we have reached out to him about the fact that the voluntary</p> <p>12 dismissal was without prejudice, and asked him to represent</p> <p>13 that he was not going to be filing in another jurisdiction, and</p> <p>14 he has refused to make that representation. So there is the</p> <p>15 concern that --</p> <p>16 THE COURT: But I can't do it with prejudice. I've</p> <p>17 got a whole class implicated. To the whole class? Maybe I</p> <p>18 could make it with prejudice as to that particular estate.</p> <p>19 MS. CONNOLLY: The notice of voluntary dismissal does</p> <p>20 say that it is for his client's individual claims. Now,</p> <p>21 granted, there will not be any plaintiffs remaining if the</p> <p>22 dismissal is granted; but if we were given time to replace the</p> <p>23 class representatives, granting his notice of voluntary</p> <p>24 dismissal, which we don't think can be done without a hearing,</p> <p>25 but doing that would not effectively dismiss the class claims.</p>	<p style="text-align: right;">Page 8</p> <p>1 MS. CONNOLLY: Well, there are a couple of things that</p> <p>2 we would like for you to do. We would like to have additional</p> <p>3 time, obviously, to try to find a class representative; but we</p> <p>4 also believe that the dismissal can't happen without a court</p> <p>5 order, and that we have some serious concerns that this</p> <p>6 dismissal was done as part of Mr. Haviland's vendetta to class</p> <p>7 counsel. It is very oddly coincidental that both of the J&amp;J</p> <p>8 plaintiffs suddenly decided that they didn't want to</p> <p>9 participate in the case three days before we were going to have</p> <p>10 oral argument on the post-remand motions for summary judgment.</p> <p>11 Our attempts to get a rational explanation from Mr. Haviland</p> <p>12 about why this was occurring have just not happened, and we</p> <p>13 believe that he should have to account to this Court why his</p> <p>14 plaintiffs are seeking to withdraw, and that there should be a</p> <p>15 hearing under Rule 23(e), and he should have to come forth and</p> <p>16 represent to this Court that this is in fact what these</p> <p>17 plaintiffs want to do.</p> <p>18 THE COURT: What's 23(e)?</p> <p>19 MS. CONNOLLY: That's the dismissal, what the</p> <p>20 dismissal would have to be under 23(e) for a voluntary</p> <p>21 dismissal because we have a 40 -- a certified class.</p> <p>22 THE COURT: All right, so that's helpful. So you want</p> <p>23 me to just schedule a 23(e) hearing?</p> <p>24 MS. CONNOLLY: Yes. And we believe that Mr. Haviland</p> <p>25 should be required to appear, which he has indicated that he</p>
<p style="text-align: right;">Page 7</p> <p>1 It would only dismiss his client's individual claims.</p> <p>2 THE COURT: Well, let me ask you this: Do you have</p> <p>3 any -- you've had trouble with this over the years. I've</p> <p>4 always allowed you to replace because this is, I've always</p> <p>5 said, an aging and dying class.</p> <p>6 MS. CONNOLLY: That's right.</p> <p>7 THE COURT: That having been said, you've got to find</p> <p>8 someone.</p> <p>9 MS. CONNOLLY: Yes.</p> <p>10 THE COURT: And it's always been a problem for you.</p> <p>11 It takes a long time.</p> <p>12 MS. CONNOLLY: Yes, it does take a long time, and</p> <p>13 these in particular are very difficult clients to find.</p> <p>14 THE COURT: My guess is --</p> <p>15 MS. CONNOLLY: That we previously turned over heaven</p> <p>16 and earth to look for them?</p> <p>17 THE COURT: To find people. So I'm trying to figure</p> <p>18 out what to do here.</p> <p>19 Have you filed anything? You haven't filed anything.</p> <p>20 MS. SHOFNER: We filed the motion for summary judgment</p> <p>21 which was originally -- yes, no, no, no.</p> <p>22 THE COURT: On this issue.</p> <p>23 MS. SHOFNER: No, we haven't.</p> <p>24 THE COURT: So should I dismiss this case without</p> <p>25 prejudice to the class?</p>	<p style="text-align: right;">Page 9</p> <p>1 doesn't want to do.</p> <p>2 THE COURT: I understand why he doesn't want to. I</p> <p>3 mean, he's been disqualified here. So if he doesn't appear,</p> <p>4 then what? I'm just trying to play this out. I've made it</p> <p>5 pretty clear, I think -- I haven't even read your material --</p> <p>6 what I'm likely to do on the 93A claim, unless I change my</p> <p>7 mind, because I haven't looked at it in years. But there is</p> <p>8 the issue of the national class that's triable to a jury. I</p> <p>9 thought that was a fair point that was never really teed up</p> <p>10 before; what do I do with that? And I hate to have the</p> <p>11 potential for different suits and different statutes argued.</p> <p>12 MS. SHOFNER: Your Honor, we do have precedent for the</p> <p>13 idea of barring Mr. Haviland from bringing these as state law</p> <p>14 claims, In Re: Phillips Petroleum.</p> <p>15 THE COURT: But I wouldn't be inclined to do that, in</p> <p>16 the sense of if there's a viable claim somewhere. Here's the</p> <p>17 thing: I don't remember it well. The issues with respect to</p> <p>18 Johnson &amp; Johnson came up in a blur at the end. And I do</p> <p>19 remember my strong feelings about 93A, but I also remember that</p> <p>20 I didn't focus on -- maybe you didn't focus me on it, or maybe</p> <p>21 I just didn't focus on it -- the rest of the country. And</p> <p>22 that's the piece that I think the First Circuit was confused on</p> <p>23 because I hadn't actually addressed it explicitly, and it came</p> <p>24 back to me. And I've got to do that. And now let's assume</p> <p>25 there's no real plaintiff. I can't do it, but that doesn't</p>